

Document #4782

7/17/86

COLUMBIA POINT DEVELOPER SELECTION:

MEMORANDUM OF UNDERSTANDING AMONG THE BOSTON HOUSING AUTHORITY,
THE BOSTON REDEVELOPMENT AUTHORITY, AND COLUMBIA POINT COMMUNITY
TASK FORCE, INC.

In selecting a Developer for Columbia Point, the three parties (BHA, BRA, and Task Force) wish to underscore the unique public purpose of this redevelopment effort. Accordingly, this Memorandum of Understanding seeks to reaffirm, through clarification and elaboration, the commitments expressed in the Developer's Kit and in the Resident Rehousing Agreement with regard to the provision and maintenance of low income housing, protection of current residents in relocation, housing, and in the operation of the new development, resident participation in project decisions, and resident employment.

The Parties agree to these provisions and intend to condition the selection of a Developer on their acceptance. Further, as a condition of final designation, the Parties will require the Developer to present a plan or plans demonstrating the satisfaction of all of the Parties how these requirements will be met. The provisions will also be reflected in any land disposition agreements negotiated with the Developer.

LOW INCOME HOUSING

Preservation of 400 Units

In order to further the redevelopment requirement as stated in Part V of the Developer's Kit that at least 400 low income units must be provided and permanently maintained, at rents not greater than those paid by public housing tenants, the Parties agree to the following points of clarification:

1. The Project will be conveyed or ground leased subject to a ninety-nine (99) year restriction which will require that at least 400 units of the Project will be maintained as affordable rental units for low income households (households eligible for federally-assisted public housing) in a manner consistent with the requirements established by the Parties.
2. The Developer shall agree to: (a) make units available to low income households that are equivalent in design, construction quality, and level of amenities to other Project units and uniformly mixed with units available to other income groups; (b) make units available to low income households that are of appropriate size to meet the needs of households subject to the

Rehousing Agreement and maintain at least the same number and proportion of large (3- or more bedroom) units; (c) make low income units available first to households who are subject to the Rehousing Agreement and second to eligible applicants on the BHA waiting list; (d) maintain a mix of low income households that reflects the economic mix of households at BHA family developments generally; and (e) set and maintain rents for low income households, and for all Columbia Point residents subject to the Rehousing Agreement, in accordance with the percentage of income schedule in effect for federally and/or state assisted low income housing, including all utilities.

1. The Developer shall provide evidence satisfactory to the Parties, as a condition of final designation, that binding public subsidy commitments have been obtained in an amount sufficient to fund the low income component of the Project for the longest period of time available. The Developer shall agree to maintain such subsidies for the full term available, and to utilize all possible steps to extend or renew initial subsidy commitments and/or to secure alternative replacement funding.

2. The Parties shall explore, in conjunction with the Developer, additional mechanisms for securing the low income component of the Project on a permanent basis, including the exercise of reversionary rights and obligations by the BHA.

3. The Developer shall be required to allocate a portion, to be negotiated by the Parties and the Developer, of the net proceeds available from syndication, operation, and resale or refinancing of some or all of the Project to a special trust fund to provide reasonable additional security for the low income component of the Project, to the extent not provided by other means available to the Developer.

Public Benefit Fund

Because of the unique public purpose of this redevelopment effort the Parties agree to the following:

1. A Public Benefit Fund will be established to preserve, upgrade and expand the supply of low income housing in the City of Boston. The specific terms and provisions of the trust fund will be subject to negotiation.

2. The trust fund will be funded from: (a) funds set aside to cover operating losses of the Project, to be contributed to the fund following stabilization; (b) the funds referred to in subsection 5 above, to the extent such funds are no longer reasonably required for this purpose; (c) insofar as the Project becomes profitable, a portion, to be negotiated by the Parties and the Developer, of the net proceeds

from Project operation and from

3. The Parties shall utilize their best efforts to make available to the trust fund any resources generated by the redevelopment effort that are subject to public control, including UDAG loan paybacks and land acquisition fees, ground rents, or note repayment to BHA.

II. REHOUSING AND RELOCATION

Consistent with the purposes of the Resident Rehousing Agreement, which guarantees all households remaining in occupancy at Columbia Point the right to live in a new or substantially rehabilitated unit, the Parties agree to the following points of clarification:

1. The Rehousing Guarantee shall apply to all Columbia Point residents who are recognized by the BHA as leaseholders or as heads of doubled-up households at the time of final Developer designation (§ 2a). The Rehousing Guarantee shall be transferable to another adult member of the household who was reported on the Tenant Status Review most recent to final Developer designation or to a caretaker of remaining household members upon the death or departure of the household head (§ 2f, g).
2. All households subject to the Rehousing Guarantee shall be offered a new or substantially rehabilitated unit of a size appropriate to family needs at the time of rehousing, as quickly as possible (consistent with the economic and racial mix goals established by the Parties) and wherever possible in one move (§ 2d, Developer's Kit, S. IIIB 1).
3. All households requiring temporary relocation shall be offered an appropriately-sized unit, in decent, safe, and sanitary condition, with functional appliances and adequate security. Temporary relocation shall be on-site except by choice of the individual household, and shall be accomplished in a manner that minimizes disruption and inconvenience to residents (§ 2b).
4. In determining the location of temporary and permanent rehousing units, consideration shall be given to medical, employment, and other special household needs. Residents shall receive adequate written notice of relocation and rehousing and adequate time to move.
5. Relocation services and benefits shall be provided for both temporary and permanent moves that are at least equivalent to the services and benefits provided under the federal Uniform Relocation Act or the state relocation act, whichever is greater (§ 2b).

6. The BHA agrees to convey to the Developer only the information contained in the TSRs of the current residents most recent to final designation.
7. Residents shall not be denied temporary or permanent housing unless they are evicted for cause or for non-payment of rent in accordance with the terms of the BHA lease in effect (§ 2c, j).

TENANTS RIGHTS AND PRIVATE MANAGEMENT

In order to further the redevelopment commitment as stated in the Developer's Kit to improve the quality of life for existing low income tenants through private management, the Parties wish to assure that the rights and benefits presently available to Columbia Point residents are adequately protected. Accordingly, the Parties agree to the following points of clarification:

1. Low income tenants who reside at Columbia Point under private management shall: (a) continue to pay rent based on income, in accordance with the schedule in effect for federally and/or state assisted low income housing, including all utilities; (b) have the right to remain in occupancy unless evicted for good cause, or such higher standard as required by the applicable subsidy program; (c) have the right to make special rent payment arrangements for good cause; and (d) have the right to appeal eviction actions and other disputes to an impartial Grievance Panel whose structure is to be determined by the Parties. While BHA remains the owner, the applicable rent, eviction, and grievance standards and procedures shall be those in effect for federally assisted BHA housing.
2. Private management policies and programs shall be sensitive to low income residents, and shall reflect the need for (a) flexibility in the enforcement of new standards during the transition from public to private management; (b) recognition of life-style preferences in the establishment of community rules; and (c) providing equality of services and equal access to services by residents of all income groups.

RESIDENT PARTICIPATION

To further the redevelopment objective of providing for strong resident participation in development decision-making and operations, the Parties agree to the following points of clarification:

1. Consistent with the terms of Part V of the Developer's Kit, until such time as the Task Force assumes a legal role in the development/ownership entity, the Task Force shall retain an approval role over all aspects of the redevelopment process similar to the BHA and BRA. The Task Force role shall include, but not be limited to, approval of the development program.

schedules for design and construction, financing and subsidies, management and marketing, affirmative action, tenant services, relocation and rehousing, and project ownership.

2. At the time of final designation, the Developer shall enter into an agreement with the Task Force providing the Task Force with a genuine, strong and active role in all decisions of the ownership entity, including but not limited to decisions governing the development program, design and construction, financing and subsidies, management and marketing, affirmative action, tenant services, relocation and rehousing, and any sale and/or refinancing of the Project.
3. During the period prior to the final Developer designation, the BHA and the BRA shall use best efforts to provide, or assure the provision of, sufficient funding to enable the Task Force to participate equally with the BHA and BRA in the process of tentative and final Developer designation, as provided in Part V of the Developer's Kit, including funding for reasonable organizational expenses and fees for architectural, legal, development, and other technical services. Subsequent to final designation, the Developer shall allocate sufficient funds to enable the Task Force to genuinely and fully participate in decision making along with the Developer, as provided in Section IV herein, including funding for reasonable operating, organizational, and consultant services. Such funding shall be in addition to any funds otherwise designated for tenant services, maintenance of the low income component of the Project, or other purposes as required by the Parties as a condition of disposition.
4. As part of its undertaking with the developer the Task Force will create a plan providing for the representation of new Columbia Point residents as the development becomes occupied. Such plan will assure that the low income residents have a genuine, strong and active role in the overall representation of Columbia Point residents.

V. RESIDENT EMPLOYMENT

In order to further the redevelopment requirement that Columbia Point residents be afforded a fair share of the construction and permanent job opportunities created by the redevelopment process, the Parties agree to the following points of clarification:

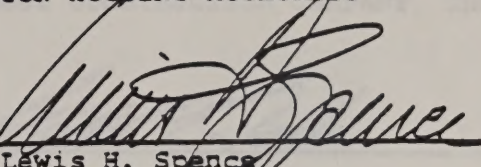
1. No less than fifty (50) construction-related jobs shall be provided to (i) current Columbia Point residents, (ii) future low income residents of Columbia Point, and (iii) residents of other BHA developments, in the areas of union apprenticeships, union laborers, and construction management.

2. A comprehensive educational and support services program shall be established jointly by the Developer and the Task Force, and funded by the Developer, to prepare resident workers for apprentice exams and training classes and to facilitate introduction of these workers into the construction trades. The program shall include such elements as: resident recruitment, intake and counseling, orientation, job placement and follow-up, and additional job placement with other contracting/development groups. The program staff shall include an employment specialist and at least one resident position.
3. At least fifty percent (50%) of on-site management positions must be offered to residents, in job categories to be determined jointly by the Developer and the Task Force.
4. Compliance with resident employment requirements shall be monitored in conjunction with comprehensive compliance monitoring program established for affirmative action hiring, affirmative marketing, and MBE utilization.
5. The Developer shall assist the Task Force in organizing a community business enterprise.
6. The specific terms and provisions of the resident employment program will be further defined prior to final designation.

PLAINTIFF CLASS

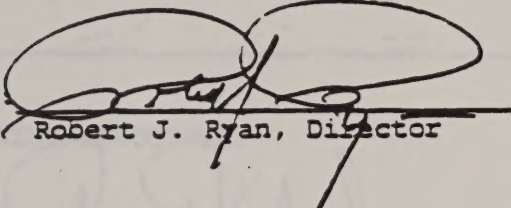
The parties agree that the plaintiff class in the case of Perez v. Boston Housing Authority shall be a beneficiary of and shall be bound by this Memorandum of Understanding, and the plaintiff class is executing this memorandum for the purpose of confirming the same.

BOSTON HOUSING AUTHORITY

By: 

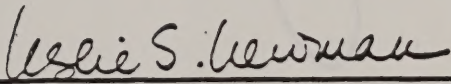
Lewis H. Spence
Receiver/Administrator

BOSTON REDEVELOPMENT AUTHORITY

By: 

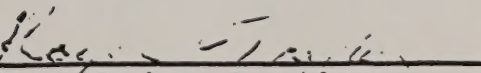
Robert J. Ryan, Director

PLAINTIFF CLASS
PEREZ V. BHA

By: 

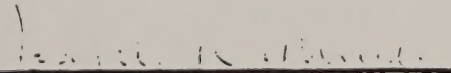
Leslie Newman, Lead Counsel

COLUMBIA POINT COMMUNITY
TASK FORCE, INC.

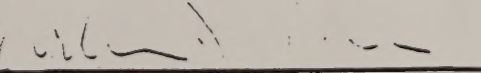
By: 

Roger Taylor, President

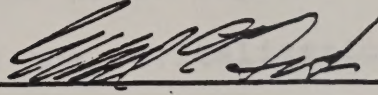
CORCORAN, MULLINS, JENNISON, INC.

By: 

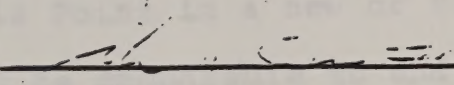
NATIONAL HOUSING PARTNERSHIPS

By: 

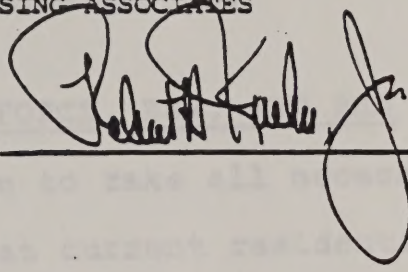
PEABODY CONSTRUCTION COMPANY, INC.

By: 

JOHN B. CRUZ, INC.

By: 

HOUSING ASSOCIATES

By: 

COLUMBIA POINT RESIDENT REHOUSING AGREEMENT

Columbia Point Community Task Force, Inc. (Task Force), the representative of Columbia Point residents, the Boston Housing Authority (BHA), and the Boston Redevelopment Authority are working together to realize the revitalization and development of Columbia Point. An essential part of that development is to ensure that all current residents who wish to remain can continue to live at Columbia Point in a new or renovated unit, and that such units shall be comparable to and uniformly mixed with units for other income groups.

ACTIONS TO BE TAKEN BY THE TASK FORCE, BRA, AND BHA

The Task Force, BRA and BHA agree to take all necessary and appropriate actions to ensure that current residents (as used herein, the term "residents" shall mean all residents of Columbia Point who comply with the conditions set forth below) will have the opportunity to remain at Columbia Point. These actions shall specifically include, but not be limited to, the following. The BHA agrees not to spend the \$10 million earmarked for Columbia Point under the Urban Initiatives program on any housing plan, or to sell or lease for redevelopment any of its property at Columbia Point, unless all residents are guaranteed the opportunity to live in new or renovated units at Columbia Point. The Task Force agrees not to approve any housing development program that fails to assure that current residents will be offered new or renovated units at Columbia Point. The Task Force agrees that in its capacity as a co-developer it will provide a guarantee that all residents will be offered a new or renovated unit at Columbia Point. The BRA agrees not to

propose, approve or adopt any urban renewal plan under G.L. c. 121B, any c. 121A agreement, any land disposition agreement, or any other plan for the residential housing re-development of Columbia Point, unless such urban renewal plan, 121A agreement, other plan or land disposition agreement contains a guarantee that all residents at Columbia Point will be offered new or renovated housing at Columbia Point.

CONDITIONS OF THE GUARANTEE

The guarantee of rehousing will be subject to the following conditions and restrictions.

The guarantee will cover residents who, as of the date of this agreement, are recognized by the BHA as lease holders at Columbia Point or heads of currently doubled-up households who are scheduled by the BHA to move into their own units at Columbia Point.

Immediately after execution of this agreement, a list of the residents to whom the guarantee will apply will be compiled by the three parties. To verify the accuracy of this list, all residents on it will be notified that they are entitled to a guarantee and will be required to acknowledge receipt of the notice. Residents not listed who can establish their right to a guarantee will be added to the final list of residents entitled to a guarantee. After verification by the BHA, this list will constitute the list of certified residents eligible for the guarantee.

A resident will not receive a guarantee, or the guarantee will be void, if a resident moves from Columbia

Point, unless the BHA, BRA or the codevelopers relocate her/him because of the redevelopment or because there is no decent, safe, or sanitary apartment available for her/him at Columbia Point. Any resident relocated temporarily or permanently during the redevelopment process shall be entitled to relocation benefits under applicable law, including the Federal Uniform Relocation Act, 42 U.S.C. 4601, or the state relocation act, M.G.L. c. 79A, if applicable or to such other benefits as may be agreed to among the parties and approved by HUD.

The resident must abide by the provisions of her/his current BHA lease or future BHA lease agreements.

The unit the resident will be offered will be appropriate to the household income (rents shall not exceed 25% of gross income or other applicable HUD guidelines for public housing rents if the household income falls within public housing eligibility guidelines, or guidelines for other subsidized housing rents if the household income falls outside of public housing guidelines but within such subsidized housing guidelines) and other eligibility qualifications such as household size or age.

If the resident household's income exceeds eligibility for subsidized housing before the household has been offered an appropriate new or renovated unit at Columbia Point, the guarantee shall remain in effect (i.e., the household will be offered a unit appropriate to its income and other eligibility qualifications). If the resident household's income exceeds eligibility for subsidized housing after the household has

oved to an appropriate unit, the household shall not be subject to eviction proceedings because of income. If the household is required by law to move from its unit, however, the household shall have priority for residency in market rent units on the Columbia Point peninsula.

In case of death, divorce, separation or other long-term absence of the individual leaseholder(s), the guarantee may be transferred upon notification to the BHA to an otherwise eligible adult who has been recorded in BHA records as a bona fide Columbia Point household member.

The guarantee will not be transferable to any other resident or non-resident nor to any relative except as above.

A household's guarantee will continue in effect until that household has been offered an appropriate new or renovated unit at Columbia Point.

All disputes concerning the rights of specific residents under the guarantee will be resolved pursuant to the BHA grievance procedure.

No special conditions of eligibility other than those specified herein shall be established, by lease or otherwise, as a condition for maintaining the guarantee.

CONDITIONS OF CONTINUED RESIDENCY

The Task Force, BHA and BRA and their successors in interest shall not discriminate against holders of the guarantee in the terms, conditions or privileges of rental or sale of, or in the provision of services or facilities in connection with, new or renovated units at Columbia Point. This provision

shall be included in any urban renewal plan under c. 121B, 121A agreement, and/or other redevelopment plan for Columbia Point and in any document executed by the BHA or BRA disposing of or leasing real property for residential use at Columbia Point.

REPRESENTATIONS, ENFORCEABILITY, ETC.

The BRA represents that this agreement has been reviewed and approved by the Mayor of the City of Boston. The Task Force, BRA and BHA represent that the representatives named below have been duly authorized to sign this agreement in behalf of the respective parties and to bind them and their successors in interest. The Task Force, BRA and BHA further agree that this agreement shall be legally enforceable by any of the parties hereto or their successors in interest, and by residents of Columbia Point.

TERMINATION

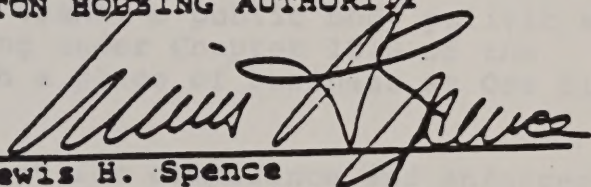
This agreement shall be terminated only in accordance with the provisions of this section. If any one of the parties wishes to terminate this agreement, that party shall so state in writing to each of the other parties. The parties may thereupon agree in writing to terminate this agreement. If all parties do not agree to terminate, the parties shall settle the disagreement by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The agreement shall be terminated only if the arbitration panel concludes in writing, after reasonable investigation, that the development objectives established by the Columbia Point Peninsula Redevelopment Agreement cannot be carried out by the three parties.

At this event the parties agree that any new or renovated housing developed on the peninsula by or through the approval of any of the three parties shall provide appropriate units for Columbia Point residents.

The parties acknowledge that the lists of current residents who are leaseholders (see Enclosure #1) or heads of currently doubled-up households (see Enclosure #2), and who are to be entitled to a new or renovated unit after the redevelopment of Columbia Point are incorporated by reference into this agreement and said lists will be further verified as provided by the notice provision of Section 2(a) of the Agreement.

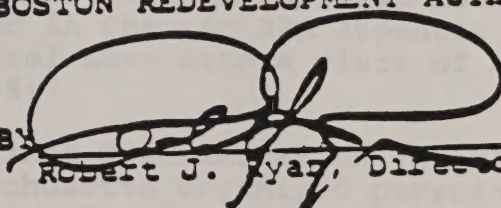
BOSTON HOUSING AUTHORITY

BY


Lewis H. Spence
Receiver/Administrator

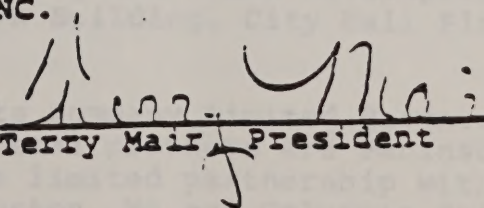
BOSTON REDEVELOPMENT AUTHORITY

BY


Robert J. Ryan, Director

COLUMBIA POINT COMMUNITY TASK FORCE
INC.

BY

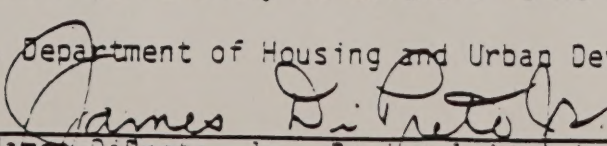

Terry Mair, President

Apr. 18, 1981
Date

The Department of Housing and Urban Development (HUD) recognizes and endorses the objectives of this agreement. HUD hereby agrees to cooperate with the Task Force, the BHA, and the BRA, in ensuring that current residents of Columbia Point will have the opportunity to remain permanently at Columbia Point as set forth above.

U.S. Department of Housing and Urban Development

By:


James DiPrete, Jr., Regional Administrator

MEMORANDUM OF AGREEMENT
of the
AFFIRMATIVE ACTION COORDINATING COMMITTEE
for
HARBOR POINT DEVELOPMENT

DATE: April 11, 1986

PARTIES TO MEMORANDUM OF AGREEMENT [Affirmative Action Coordinating Committee (AACC)]:.

1. Boston Housing Authority (BHA), a body politic and corporate established under Chapter 121B of the Massachusetts General Laws with a place of business located at 52 Chauncy St., Boston, 02111;
2. Boston Redevelopment Authority (BRA), a public body politic and corporate organized and existing under Chapter 121B of the Massachusetts General Laws with a place of business at One City Hall Plaza, Boston, MA 02201;
3. City of Boston, through its agent for compliance and enforcement, presently the Mayor's Office of Jobs and Community Services (JCS), formerly the Neighborhood Development and Employment Agency (NDEA) with a place of business at 15 Beacon St., Boston, MA 02108;
4. Massachusetts Housing Finance Agency (MHFA), a body politic and corporate organized pursuant to the Mass. General Laws Chapter 708 of the Acts of 1966 found in Chapter 23A Appendix 1-lff. of the West Edition of the General Laws with a place of business at 50 Milk St., Boston, MA 02109;
5. Massachusetts Commission Against Discrimination (MCAD), an agency of the Commonwealth of Massachusetts organized pursuant to Mass. General Laws Chapter 6, Section 56, located at One Ashburton Place, Boston, MA 02108.

United States Department of Housing and Urban Development (HUD) with a local place of business at JFK Building, City Hall Plaza, Boston, MA.

PARTNERSHIP: Harbor Point Apartments Company Limited Partnership, a limited Partnership of which the general partners are Peninsula Partners Limited Partnership, a Massachusetts limited partnership with a place of business at 320 Mount Vernon St., Boston, MA and Columbia Point Citizens Task Force, Inc., a corporation organized pursuant to Mass. General Laws, Chapter 180 with a place of business at Boston, MA.

PROJECT NAME AND LOCATION: Harbor Point, Mount Vernon Street, South Boston, MA.

AGREEMENT made the day first above written by and among the Parties hereinafter referred to as the Parties or the AACC.

The Partnership is to construct or rehabilitate the Project on the location with funds provided by some of the Parties, co-insured by HUD and MHFA, on land presently owned or controlled by BHA, and with subsidy funds made available by several of the Parties.

The Parties hereto each have separate requirements/goals for labor standards and affirmative action and HUD has another set of standards and requirements. These include percentage requirements/goals designed to achieve: i) a workforce with both minorities and Women (Minority Hiring and/or Women Hiring), ii) utilization of business enterprises owned by minorities (MBE), iii) a workforce with bona fide Boston Residents (Boston Hiring), iv) a workforce with residents of BHA (Resident Hiring) and v) utilization of business enterprises owned by women (WBE).

HUD and several of the Parties have requirements for Affirmative Fair Marketing (AFM) and minority hiring reporting.

Several of the Parties have requirements for MBE, WBE, Boston and Resident Hiring.

NOW THEREFORE, the Parties hereby form a committee which will be known as the Affirmative Action Coordinating Committee (hereinafter AACC) as set forth hereinafter.

The AACC has been formed in order to coordinate the requirements/goals, reporting documentation, monitoring, and enforcement by the Parties in an attempt both to prevent unnecessary duplication of efforts and to achieve full compliance with the requirements/goals stated herein and in the controlling documents as follows:

1. Minority, Female, Boston Resident, BHA Resident Participation Program
2. Affirmative Fair Marketing
3. HUD Permanent Jobs Requirement
4. Federal and State Executive Orders
5. Federal and State Prevailing Wage Requirements

The following constitutes the agreement among the Parties with regard to the operation of the AACC:

1. Affirmative Action Coordinating Committee

- A) The AACC will make decisions by majority vote of all Parties. The AACC will meet at least monthly. A recording secretary will be elected at the first meeting, the post to be held for

one year from that date. No one Party is to be recording secretary more than one year until each Party hereto has fulfilled the obligation to be recording secretary.

- B. A quorum shall consist of representatives of three (3) of the Parties. One representative and a substitute staff from each Party shall be identified in Attachment C hereto. Each Party will have one vote. If a quorum cannot be assembled, the recording secretary may poll the representatives by phone and enter the names and the vote in the minutes of the next following meeting.
- C. Minutes shall be taken at each meeting and shall be distributed to all representatives. Representatives can be changed by notification from the Party wishing to change representation, either by mail to the recording secretary, which notification shall be entered in the minutes, or by the Party at a meeting, at which time the change shall be entered in the minutes.
- D. The Parties hereto accept the following documents, requirements/goals, and standards as binding on each of them.

II. Minimum Requirements and Goals

Each and every Party hereto agrees that the goals/requirements are those in the Minority, Resident and Female Participation Provision attached hereto as Attachment A (the "Provision") and the Affirmative Fair Marketing Contract (AFM) Attachment B hereto. The Provision is attached to the Ground Lease from the BHA to the entity developing Columbia/Harbor Point as Exhibit J. Nothing in this agreement shall be construed as nullifying or modifying any term of the Provision.

A) Construction Workforce

Minority Hiring	30% minimum requirement
Women Hiring	10% minimum requirement
BHA Resident Hiring	47 construction jobs for at least a total number of hours equal to 15% of total construction hours; 3 professional construction related positions for at least 3,000 hours each; and, 50% of the on-site management jobs/minimum requirement.
Boston Hiring	50% minimum requirement
Prevailing Wage Payments	Federal and State wage requirements currently in effect and Federal Labor Standards

B) Business Enterprise During Construction

Minority Business Enterprise 30% minimum requirement

Women's Business Enterprise 5% minimum requirement

C) Affirmative Fair Marketing

Subsidized Units Non-Minority 30% Non-minority (During initial rent-up, this requirement is superceded by the commitment to house current Columbia Point residents.)

Market & Moderate Units 30% Minority minimum requirement

D) Business Enterprise During Operation (goods, equipment and services)

Minority Business Enterprise 5% minimum goal

Women's Business Enterprise 5% minimum goal

E) UDAG Agreement 63 jobs

F) HUD Act of 1968, Section 3 Training of lower-income residents of HUD project areas and the utilization of local and resident-owned business in such areas

III. Equal Opportuntiy Reporting Requirements

In order to assure compliance with the above stated Requirements, the AACC shall require that the Partnership submit the following to the BRA. Although both the BHA and MHFA use a form for number 2 below, the BHA form will be used; BRA and BHA use a form for number 3 and the form of the BHA will be used.

A) During Construction

1. Quarterly projected manning tables, to be submitted by each contractor for each quarter for volume of construction labor projected for the following quarter, and the projected composition of the workforce relating to Boston resident, minority, and female work requirements.

2. Weekly utilization reports to be completed, and submitted by all construction contractors weekly, for all construction labor performed the prior week including documentation of wages paid.

3. Monthly, all subcontract negotiations and commitments.

4. Monthly reports of total disbursements to MBE's and WBE's.

B) During Rent-Up and Operations

1. HUD, BRA and MHFA all require Affirmative Fair Marketing Contracts and reporting forms. After allowing for re-location requirements and a sufficient period for the Project to reach equilibrium, income mix is to be substantially consistent in each phase of the construction and such mix is to be incorporated and attached to the Affirmative Fair Marketing Contract.

IV. Monitoring and Record Keeping

A) Construction Monitoring

The Parties hereto agree that, except as otherwise provided in this Agreement, the BRA will be solely responsible for the on-site monitoring of the above workforce requirements during the Construction period. The results of such monitoring will be made available to the AACC at the monthly meeting and entered into the minutes. If there is apparent non-compliance, the BRA will notify the recording secretary immediately by phone, followed by written notification which will be sent to each representative by the recording secretary. Notification to the Developer and Contractor shall be given as provided in the Provision.

B) Imposition of Sanctions for Non-Compliance During Construction

1. Determination as to what constitutes compliance with Section II above and recommendations for appropriate sanctions shall be made by majority vote.
2. The Parties agree that recommendations for appropriate sanctions and all requested back-up information will be forwarded to MHFA. Such a decision can be made by the AACC by a majority vote only. The requirements for imposition of sanctions shall be those set forth in the Provision and Affirmative Fair Housing Marketing Contract. The Parties agree to attend any and all meetings or hearings held to determine whether the AACC should recommend the imposition of sanctions.

C) Construction Record Keeping

The Parties agree that the City of Boston Mayor's Office of Jobs and Community Services (JCS) is to receive all Workforce reports in order to keep a computer record. A monthly print-out will be made available to the AACC representatives. The Parties will execute a joint Personal Data Holders Agreement pursuant to MGL CH 66A.

MBE compliance shall be monitored by BHA. WBE compliance shall be monitored by MHFA.

The City of Boston, JCS, shall monitor the permanent jobs provisions of the UDAG Agreement.

Information received shall be public information except information protected from disclosure by law and communications between the AACC and any counsel it appoints.

D) Operations Monitoring and Record Keeping

Both HUD and MHFA shall monitor the Project for compliance once rent-up has begun. The Partnership shall enter into the Affirmative Fair Marketing Contract required by both HUD and MHFA.

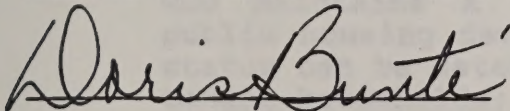
V. Amendments and Notification

Amendments to this Memorandum of Agreement can be made only at the regularly scheduled monthly meeting by a majority vote with a quorum present. Notification of such amendment is to be sent the next business day to each and every representative of the AACC, the Partnership, and HUD. All notifications are to be sent to the Partnership, and HUD. All notifications are to be sent to the addresses as above listed and to the representatives as listed on Attachment 1 hereto, as amended by entry in the minutes. Notification to the AACC is to the recording secretary.

This Memorandum of Agreement executed by and among the Parties under seal the day first above written.

BOSTON HOUSING AUTHORITY

BOSTON REDEVELOPMENT AUTHORITY



CITY OF BOSTON MAYOR'S OFFICE OF JOBS AND COMMUNITY SERVICES

MASSACHUSETTS HOUSING FINANCE AGENCY

MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

Attachments:

- Attachment A: Minority Resident and Female Participation Provision
- Attachment B: Affirmative Fair Marketing Contract
- Attachment C: Representatives to AACC

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Exhibit J

**Harbor Point Development
(Columbia Point Redevelopment)**

Minority, Resident and Female Participation Provision

I. Definitions

The following terms are defined for the purposes of this Provision:

- A. **AACC - Affirmative Action Coordinating Committee** - The Committee is composed of one representative each from the Boston Housing Authority ("BHA"), the Boston Redevelopment Authority, ("BRA"), City of Boston, Mayor's Office of Jobs and Community Services (formerly NDEA), Massachusetts Commission Against Discrimination ("MCAD") staff person, and the Massachusetts Housing Finance Agency ("MHFA");
- B. **BHA - Boston Housing Authority** - a body politic and corporate established under Ch.121B of the Massachusetts General Laws ("MGL") with a place of business at 52 Chauncy Street, Boston, MA 02111;
- C. **BHA Resident** - A person at least eighteen years of age who maintains a full-time residence at any of the public housing developments owned by the BHA and whose status can be determined by the BHA from its records on tenant households;
- D. **BRA - Boston Redevelopment Authority** - a public body politic and corporate organized and existing under Chapter 121B of the MGL with a place of business at One City Hall Plaza, Boston, MA 02201;
- E. **City of Boston - Mayor's Office of Jobs and Community Services** - The compliance and enforcement agency for the City of Boston (formerly NDEA);
- F. **City of Boston Ordinance** - The Boston Residents Job Policy, an Act of the City Council of Boston, dated October 14, 1983;

- G. **City of Boston Resident** - A person who regularly eats, sleeps and maintains normal personal and household effects at a residence in the City of Boston;
- H. **Contract** - Any general construction contract executed or to be executed between a general contractor and the Developer for performance of construction work, in connection with the Harbor Point Development project, of which this Provision is a part;
- I. **Contractor** - Any individual, partnership, joint venture, corporation, or other firm (including but not limited to any entity in which the Developer has a substantial beneficial interest) with which the Developer has executed or is proposing to execute a general construction contract for work on the Harbor Point Development project;
- J. **Days ("days")** - Working days, not calendar days;
- K. **Developer** - Harbor Point Apartments Company Limited Partnership with a principal place of business at 1 Heritage Drive, Quincy, 02171, a limited partnership of which the general partners are Peninsula Partners Limited Partnership, a Massachusetts limited partnership with a place of business at 320 Mount Vernon St., Boston, MA 02125 and Columbia Point Community Task Force, Inc., a corporation organized pursuant to MGL Ch. 180, with a place of business at 310 Mount Vernon Street, Boston, MA 02125 and any successors and assigns;
- L. **Joint Venture** - A contractual agreement between two or more contractors for the purpose of supplying goods or services. A Joint Venture agreement between a Minority or Women Business Enterprise and a non-Minority or non-Women Business Enterprise must provide that the Minority Business Enterprise or Women Business Enterprise will perform an agreed upon percentage of the Joint Venture work and receive not less than an agreed upon percentage of the Joint Venture contract proceeds. The AACC reserves the right to investigate any proposed Joint Venture as it deems appropriate or necessary and to determine the extent, if any, to which the Minority or Women Business Enterprise portion of the Joint Venture shall be credited toward the requirement of Section III. B.
- M. **MCAD** - Massachusetts Commission Against Discrimination-

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an agency of the Commonwealth of Massachusetts organized pursuant to MGL Ch 6, Section 56, with a place of business at One Ashburton Place, Boston, MA 02108;

- N. **MHFA - Massachusetts Housing Finance Agency** - a body politic and corporate organized pursuant to the MGL, Chapter 708 of the Acts of 1966 as amended, found in Chapter 23A Appendix 1-lff. of the West Edition of the MGL with a place of business at 50 Milk St., Boston, MA 02109;
- O. **Minority or Minority Person** - A person who is Aleut, Asian (including the continent of India), Black, Cape Verdean, Inuit, North American Indian, or Western Hemisphere Hispanic;
- P. **Minority Business Enterprise** - A business organization in which at least fifty-one percent (51%) of the legal and beneficial ownership interests, and at least fifty-one (51%) percent of the voting interests, if applicable, are held by Minority persons, and in which the management of the business is in fact controlled by Minority persons provided, however, that the existence of any agreements, options, rights of conversion or other restraints which may be exercised within two (2) years and which, if exercised, could reduce minority ownership or control to less than the requisite percentage, shall establish that the existing enterprise is not a Minority Business Enterprise. Any business organization that has not conducted business continuously for at least a one (1) year period shall not be approved as a Minority Business Enterprise except at the discretion of the AACC. If a business organization is a Joint Venture, such organization shall be deemed a Minority Business Enterprise only in accordance with the procedures, requirements and limitations set forth in Section III B.5. of this Provision. A business organization that merely acts as a broker, an agent or a passive conduit in connection with the provision of goods or materials, or a business organization that does not assume any financial risk or control over goods and materials supplied shall not be considered a Minority Business Enterprise for purposes of this Provision;
- Q. **Perform** - On-site construction work done by a construction contractor with his/her own organization;
- R. **Qualified** - A Minority Business Enterprise or Women

Business Enterprise is qualified if it has (or is to obtain by its own efforts, by advice and, or counsel, reasonably and normally extended by contractors to their subcontractors and suppliers or available from government or private agencies) the necessary experience, organization, technical qualifications, skills, facilities and licenses to perform work or supply goods or service as proposed; and it does not have an unsatisfactory record of integrity, judgment, and performance;

- S. **Services** - Construction related services supplied to the Contractor in connection with its performance of the Contract, including rental of equipment, trucking, security and other similar services, but not including insurance, bonding, or other financial services;
- T. **SOMBA** - State Office of Minority Business Assistance with a place of business at 100 Cambridge St., Boston, MA;
- U. **Subcontractor** -Any individual, partnership, joint venture, corporation, or other entity having a contract with the Contractor (or any of its Subcontractors) which substantially consists of performance of on-site construction work under the Contract;
- V. **Supplier** - An individual, partnership, joint venture, corporation, or other entity which provides goods or materials to, the Contractor (or any of its Subcontractors) under the Contract;
- W. **Supply** - the provision of any goods or services by a vendor to the Contractor;
- X. **Unavailable** - A Minority Business Enterprise or Women Business Enterprise is unavailable if it has sufficient knowledge of the Contract to formulate (or decline to formulate) a proposal to perform work or supply goods or services, but it is unwilling or unable to make a proposal;
- Y. **Women Business Enterprise** - A business organization in which at least fifty-one (51%) percent of the legal and beneficial ownership interests, and at least fifty-one (51%) percent of the voting interests, if applicable, are held by female persons, and in which the management of the business is in fact controlled by female persons provided, however, that the existence of any agreements, options, rights of conversion or other restraints which

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may be exercised within two (2) years and which, if exercised, could reduce female ownership or control to less than the requisite percentage, shall establish that the existing enterprise is not a Women Business Enterprise. Any business organization that has not conducted business continuously for at least a one (1) year period shall not be approved as a Women Business Enterprise except at the discretion of the AACC. If a business organization is a Joint Venture, such organization shall be deemed a Women Business Enterprise only in accordance with the procedures, requirements and limitations set forth in Section III B.5. of this Provision. A business organization that merely acts as a broker, an agent or a passive conduit in connection with the provision of goods or materials, or business organization that does not assume any financial risk or control over goods and materials supplied shall not be considered a Women Business Enterprise under this definition;

II. Compliance with Applicable Federal and State Equal Opportunity Requirements and Affirmative Action and Resident Employment Requirements

In addition to satisfying the specific requirements of this Provision listed below, the Contractor agrees to comply with all other applicable federal rules, regulations, and requirements relating to equal opportunity and affirmative action in construction projects, including Title VI of the U.S. Civil Rights Act of 1964 and Executive Order 11246, as amended by Executive Order 11375, and as implemented in 24 CFR Part 130 and 41 CFR Chapter 60. The Contractor also agrees to comply with all applicable State rules, regulations, and requirements relating to equal opportunity and affirmative action in construction projects, including the Fair Employment Practices Law of the Commonwealth, MGL Chapter 151B, and State Executive Order 74, as revised and amended by Executive Orders 116, 227, and E.O. 237. The Contractor also agrees to comply with all other applicable federal rules, regulations and requirements relating to employment of residents of the project area, including but not limited to Section 3 of the Housing and Urban Development Act of 1968 and regulations issued pursuant thereto in 24 CFR Part 135. For purposes of this project, the Section 3 covered project area is the City of Boston, with special attention to Columbia Point.

III. Minority, Resident and Women Participation Requirements

A. Minority, Female and City of Boston Worker Utilization Requirements

1. The Contractor and all Subcontractors, at any tier, shall individually take affirmative action, as provided in this Provision, to maintain the following ratios in each job category of construction work, including but not limited to power shovel operator, bulldozer operator, other power driven equipment operators, roofer, damp roofer, elevator constructor, elevator constructor helper, glazier, sprinkler fitter, asbestos worker, sheetmetal worker, iron worker, bricklayer, cement mason, waterproofer, plasterer, carpenter, electrician, plumber, pipefitter, painter, laborer, tilesetter, tilesetter helper, truck driver and taper:
 - a. at least fifty (50%) percent Boston Resident work hours to total employee work hours in each job category;
 - b. at least thirty (30%) percent Minority employee work hours to total employee work hours in each job category;
 - c. at least ten (10%) percent female employee work hours to total employee work hours in each job category.

For the purposes of Section III A. 1., worker hours shall include work performed by persons in apprenticeship and on-the-job training positions.

2. The Contractor and Subcontractor shall meet the percentages stated in Section III A.1, unless the Contractor and Subcontractor shall demonstrate to the satisfaction of the AACC that it has taken and is taking every possible measure to achieve compliance, but is unable to do so because insufficient qualified Minority workers, Boston Residents, or female workers, as appropriate, are available.

B. Minority and Women Business Enterprises Requirement

1. The Contractor shall utilize Minority Business Enterprises to perform construction work and/or supply goods or services for a total price of not less than thirty percent (30%) of the final cost of construction; provided that at least seventy-five (75%) percent of that dollar amount shall be allocated to Minority Business Enterprises for the performance of construction work. Not more than twenty-five (25%) percent of the

required dollar amount shall be awarded to Minority Business Enterprises that are Suppliers.

2. The Contractor shall utilize Women Business Enterprises to perform work and/or to supply goods or services for a total dollar amount which shall be not less than five (5%) percent of the final cost of construction.
3. The Contractor shall meet the dollar goals stated in Section III B.1. and B.2., unless the Contractor demonstrates to the AACC that:
 - a. It has taken and is taking every possible measure to contact and negotiate with Minority and Women Business Enterprises in order to meet the stated goals; and
 - b. It was unable, notwithstanding such measures, to achieve said goals because Minority and Women Business Enterprises were not qualified or were unavailable; and
 - c. It did subcontract such work to and purchase such goods and services from Minority and Women Business Enterprises as it could using every possible measure.
4. The Contractor shall refer to the lists of Women and Minority Business Enterprises provided by the City of Boston, BHA, BRA, MHFA, and SOMBA in order to locate and identify Women and Minority Business Enterprises. However, the AACC reserves the right to determine whether a business organization constitutes a Women or Minority Business Enterprise within the meaning of this Provision. Any Women or Minority Business Enterprise may apply to the AACC at any time for approval as a Women or Minority Business Enterprise. The Contractor is not limited to the lists maintained by the above-mentioned agencies in satisfying the requirements of this Provision. The Contractor may propose a Women or Minority Business Enterprise by listing that firm on Attachments 2A or 2B, as appropriate, to this Provision and by submitting a completed Attachment 3 to this Provision.
5. The AACC shall determine whether a venture between a Minority or Women Business Enterprise and a non-Minority-owned or non-Women-owned business is, as to form and substance, a legitimate Joint Venture. After such a

determination, a Joint Venture may be utilized as provided herein, toward fulfillment of the Minority Business Enterprise/Women Business Enterprise requirement as appropriate. If the Contractor or a Subcontractor is determined by the AACC to be a legitimate Joint Venture, the creditable dollar amount of the work, goods or services performed or supplied by the Minority or Women Business Enterprise partner of the Joint Venture will be determined by the AACC. In making its determination as to the dollar amount to credit toward the requirement of this Section, the AACC will consider, among other things, the amount of the initial capital contribution of the Minority or Women Business Enterprise partner to the Joint Venture and the amount of Joint Venture proceeds to be distributed and actually distributed to said Minority or Women Business Enterprise partner of the Joint Venture. The Contractor and any proposed parties to a Joint Venture shall provide to the AACC, upon request, such information or reports as may be required by the AACC and shall permit access during normal business hours by designees of the AACC, with or without prior notice, to any books, records, accounts, or other sources of information necessary both to an initial determination of the extent of Minority or Women Business Enterprise participation in the Joint Venture and to on going and final review of the business of the Joint Venture, in order to determine compliance with this Provision;

6. The AACC shall make a determination of the Contractor's compliance or noncompliance with Section III B prior to the initiation of construction work at Harbor Point/Columbia Point unless MHFA has authorized the commencement of construction prior to the making of such a determination. In this event the AACC shall make its compliance determination within a reasonable time period.
- C. BHA Resident Employment Requirements for Construction Work
 1. The Contractor and Subcontractors collectively shall employ forty-seven (47) BHA Residents as apprentices, journeymen and laborers. In meeting this requirement, preference shall be given to the low-income BHA Residents currently residing at Columbia Point. BHA Residents employed pursuant to this requirement shall be designated by the Developer in cooperation with the Columbia Point Community Task Force and in consultation with the BHA.

2. If any BHA Resident designated pursuant to paragraph III C.1. above is not enrolled in the appropriate apprenticeship training program, or in the appropriate union, the Developer, the Contractor, or any of its Subcontractors shall cause such BHA Resident to be enrolled. Any apprenticeship training program in which the Developer, Contractor or Subcontractor causes a BHA Resident to be enrolled shall be a program approved by the Massachusetts Bureau of Apprenticeship Training.
3. During the performance of the Contract, the Developer and the Contractor shall ensure that the BHA Residents employed pursuant to Sections III C. 1 and V.L. shall be employed for at least a total number of hours equal to fifteen (15%) percent of the total construction work hours, at the Harbor Point/Columbia Point Development including hours worked by working foremen and union stewards. The Developer and Contractor shall further insure that at least thirty (30) of the BHA Residents employed pursuant to Sections III C. 1 and V.L.. shall be employed for a minimum of five (500) hundred hours during the period of performance of the Contract. The work assigned to BHA Residents shall be at construction sites within a reasonable commuting distance of the City of Boston, unless greater commuting distance is acceptable to the BHA Resident. Such construction sites may include: i) Columbia Point/Harbor Point development or ii) any other construction site at which work is being performed by the Contractor or any of its Subcontractors, but not including any BHA funded construction sites unless approved by the BHA. At least one third (1/3) of the total hours that the BHA Residents are to be employed must be completed by not later than the time at which approximately fifty (50%) percent of the work under the Contract has been performed as determined by the AACC.
4. In that the Developer, since November, 1983, has cooperated with the Columbia Point Community Task Force in the recruitment and placement of Columbia Point and other BHA Residents into Building Trade apprenticeship programs, the AACC will credit hours worked by these BHA Residents since November, 1983 toward the requirement set forth in Section III C.1 and III C. 3. In order to receive such credit, the Developer must produce such evidence as the AACC may require to demonstrate to the satisfaction of the AACC that the Developer was responsible for placement of the BHA Resident in his or her

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trade union position and for actual hours worked by the BHA Resident in construction.

5. Personal data and other information regarding BHA Residents designated by the Developer, the Columbia Point Community Task Force, and/or the BHA shall be kept confidential by the Developer, Contractor and Subcontractor and otherwise held by the Developer in a manner that meets the requirements of MGL, Chapter 66A: Prior to seeking confirmation of any individual's status as a BHA resident, the Developer shall secure from such individual and furnish to BHA a signed Authorization for Release of Personal Data (Attachment R-3).

D BHA Resident Employment Requirements for Professional Services

1. The Developer and/or the Contractor collectively shall employ three (3) BHA Residents in Professional Service ("P.S."), construction related positions such as engineers, engineering assistants, architects, architect assistants, draftspersons, Clerks of the Works, Affirmative Action Officers, Resident employment coordinators. Preference shall be given to BHA Residents of Columbia Point. Said BHA Residents shall be designated by the Developer in cooperation with the Columbia Point Community Task Force and in consultation with the BHA.
2. The Professional Service positions in which BHA residents are to be employed shall be similar to those as enumerated above in Section III. D.1. as determined by the AACC or recognized as "professional" by businesses not related to the development at Harbor Point Development.
3. The Developer shall ensure that each BHA Resident employed in a Professional Services position shall be employed, during the period of performance of the Contract, for at least 3,000 hours. If any BHA Resident employed by the Developer, Contractor, or Subcontractor pursuant to this Section leaves, or is terminated from employment, the AACC may require the Developer, Contractor, or Subcontractor to employ an additional BHA Resident for at least the remaining number of hours that the terminated BHA Resident was required to be employed.

IV. Procedures Prior to Construction

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- A. The Developer shall notify the AACC in writing when it desires to require determination of a Contractor's compliance as a general construction Contractor under the terms of this Provision. Determination of a Contractor's compliance or non-compliance with this Provision shall be made by the AACC in accordance with the procedures specified herein. Unless otherwise permitted by the MHFA, no construction work shall commence on the Harbor Point Development project unless the AACC has found the Contractor to be in compliance.
- B. The Contractor shall submit the following information to the Developer and the AACC prior to the start of work:
 - 1. Projections of the types of work under the proposed Contract that the Contractor intends to have performed by subcontract, the types of materials and services that the Contractor intends to have supplied by vendor contract, and approximate timetable for the execution of such subcontracts and vendor contracts;
 - 2. A completed Contractor's Certification certifying intent to comply with the requirements of this Provision for utilization of workers who are minority, female, and Boston Residents, the purpose of which is to demonstrate the intent of the Contractor to comply with the requirements of Section III above (Attachment 1).
 - 3. A completed Contractor's Certification Form designed to monitor Subcontractors selected by trade, minority/female response to the bid invitation, and the minority/female business utilization by dollar volume (Attachment 1A).
 - 4. A completed Minority Business Utilization Form listing the Minority Business Enterprises which will perform work or supply goods and services, and including any third-tier or other further subcontracts to Minority Business Enterprises. A completed Women Business Utilization Form listing the goods and services and including any third-tier or other further subcontracts to Women Business Enterprises (Attachments 2A and 2B, as appropriate). No construction work which is to be subcontracted at any tier, to a non-Women or non-Minority Business Enterprise shall be reported on said Form as being performed by a Women or

Minority Business Enterprise. Each Women or Minority Business Enterprise shall be reported on said Form as either performing work, or supplying goods or services, but not both. The purpose of Attachments 2A and 2B is to demonstrate the means by which the Contractor will comply with the requirements in Section III above.

5. A completed and signed Minority or Women Business Ownership Identification Statement for any Minority or Women Business Enterprise proposed on Attachments 2A or 2B which is not on the list of Minority and Women Business Enterprises published by the City of Boston, BHA, BRA, MHFA, or SOMBA (Attachment 3).
 6. A completed and signed Letter of Intent for each Minority or Women Business Enterprise proposed to be used by the Contractor, other than the Contractor itself, listing the Contract items the Minority or Women Business Enterprise is proposing to perform or supply, and the proposed price for each item (Attachment 4).
- C. After having listed a Minority or Women Owned Business Enterprise on the submitted Attachment 2A or Attachment 2B and after having obtained and submitted a signed, and fully completed, Letter of Intent from a Minority or Women Business Enterprise, no such Minority or Women Business Enterprise may be removed from the Attachment 2A or Attachment 2B, nor may any changes be made in the work or supply assignments, or reduction made in the dollar value thereof, stated in said Form except that a Minority or Women Business Enterprise may be removed from the Attachment 2A or Attachment 2B under the conditions, and pursuant to the restrictions, set forth in Section IV. F. below.
- D. As soon as practicable after all information required under paragraphs IV.B. is submitted by the Contractor to the AACC and no later than five (5) days thereafter, the AACC shall designate, with notice to the Contractor and the Developer, a reasonable date, time and place for an initial meeting to review whether the Contractor should be determined to be in compliance with this Provision. The Contractor and the Developer shall meet with the AACC and shall provide the AACC with any requested information regarding the Contractor's compliance with this Provision. At such meeting, the Contractor shall have an opportunity to present informa-

tion and arguments pertinent to its compliance with this Provision. Further, the AACC may require the Contractor and the Developer to produce such additional information as the AACC deems appropriate, and may obtain whatever other and further information it deems appropriate.

- E. Within twenty (20) days of its initial meeting with the Contractor and the Developer, or within twenty (20) days of submission of any information requested at such meeting, whichever is later, the AACC shall recommend in writing whether or not the Contractor is in compliance with this Provision, stating a summary of the facts and reasons upon which its recommendation is based. A copy of the recommendation shall be sent to the Contractor and the Developer.
- F. The Contractor or the Developer shall be entitled, within five (5) days of receiving the AACC's recommendation, to request in writing, an opportunity for a second meeting with the AACC to present pertinent arguments and information relating to the Contractor's compliance with this Provision. If the AACC has determined that a business organization proposed by the Contractor does not satisfy the definition of Minority or Women Business Enterprise contained in Section I of this Provision; or if a proposed Minority or Women Business Enterprise fails to sign or withdraws its Letter of Intent for reasons beyond the Contractor's control; then the Contractor shall propose in writing, prior to such meeting, to substitute one or more Minority or Women Business Enterprises subject to the AACC's approval in order to satisfy the stated requirements of Section III.B.
- G. If a second meeting is requested, the AACC shall designate a reasonable date, time and place. The AACC may request such further information from the Developer and the Contractor as the AACC deems appropriate. If the Contractor has proposed substitution for any Minority or Women Business Enterprise, the Contractor shall submit a revised Minority Business Utilization Form or Women Business Utilization Form and a completed Letter of Intent for each new Minority or Women Business Enterprise. If no meeting is requested, and no substitute Minority or Women Business Enterprise(s) is proposed, the AACC's recommended determination under Section IV. E. regarding the Contractor's compliance shall become final.

- H. Within ten (10) days of its final meeting with the Contractor and the Developer where requested, and of the submission of any proposed substitutions, the AACC shall issue in writing a final determination, setting forth a summary of the facts on which it is based, as to whether the Contractor is in compliance with the requirements of this Provision. In the event the AACC must conduct an investigation to determine whether a proposed substitute is a Minority Business Enterprise or Women Business Enterprise as defined in this Provision, the AACC shall attempt to issue its determination within twenty (20) days. A copy of such determination shall be sent to the Contractor and the Developer. If the AACC determines that the Contractor is not in compliance, then it shall recommend to the MHFA that the Developer be required to direct the Contractor to take such actions as are necessary to achieve full compliance with this Provision. The MHFA shall implement such recommendation or modify it as appropriate, if it determines that specific actions by the Developer and Contractor are warranted and are consistent with the provisions of the Section 221(d)4 Co-insurance Program of the U.S. Department of Housing and Urban Development pursuant to which the Development is insured.

V. Reporting and Miscellaneous Requirements During Construction

- A. The AACC will meet monthly to review compliance with all of the provisions contained herein.
- B. The Contractor and each Subcontractor shall submit each calendar quarter a completed Quarterly Projected Work Force Table indicating weekly projections of workers required in each trade. Copies shall be furnished to the BRA one week in advance of the commencement of the period covered, and also when updated (Attachment 5).
- C. The Contractor shall secure from each of its construction Subcontractors prior to the execution of any subcontract, and shall submit to the BHA, a completed Subcontractor's Certification, Attachment 1A, to this Provision.
- D. Records of employment referral orders prepared by the Contractor or a Subcontractor shall be made available to the AACC on request. In the hiring of journeymen, apprentices, trainees, advanced trainees, and laborers, the Contractor and Subcontractors shall rely on referrals both from the traditional referral sources utilized by

the construction industry, and from any community training organization. Neither the provisions of any collective bargaining agreement, nor the failure by a union with which the Contractor has a collective bargaining agreement to refer Boston Residents, Minority workers, or female workers shall excuse the Contractor's obligations to comply with this Provision.

- E. The Contractor and each Subcontractor shall prepare Weekly Utilization Reports indicating hours worked in each trade/job category by each employee, identified as minority or non-minority, female or male, Boston Resident, and/or BHA Resident and wages paid (Attachment 6). Copies of these shall be provided at the end of each week to the BRA for the work of the previous week.
- F. The Contractor shall notify the Developer and the BHA of the execution of each subcontract or vendor contract listed on Attachment 2A or Attachment 2B, and shall provide a copy of any such executed subcontract or vendor contract with ten (10) days of execution.
- G. At the time of request for payment, the Contractor shall submit a completed and signed Minority Business Utilization Progress Report and Women Business Utilization Progress Report, for each Minority and Women Business Enterprise (Attachments 7 and 8). These reports show all payments made to each Business Enterprise. If a Minority Business Enterprise or Women Business Enterprise listed on Attachment 2A or 2B has not performed or completed its work, as identified in said Attachment, the Contractor must submit a letter stating the anticipated date of commencement or return, if any, for each Minority Business Enterprise and Women Business Enterprise.
- H. The Developer, Contractor, and Subcontractors at any tier shall provide such other information or reports as may be required by the AACC, and shall permit access during normal business hours by designees of the AACC to the job site and to their offices, with or without prior notice, to any books, records, documents, or other sources of information necessary to monitor and enforce compliance with this Provision.
- I. If the total dollar amount of construction increases after execution due to change orders, or other adjustments, the AACC may instruct the Developer to require the Contractor to subcontract additional work or to

purchase additional goods or services from Minority and/or Women Business Enterprises, for a price up to thirty percent (30%) of the increase in the total cost of construction.

- J. The Developer shall secure from its Contractor and each of the Subcontractors prior to the execution of any subcontract, and shall submit to the BHA, completed Contractor's Certifications, Attachment R-1, R-1A and R-2, to this Provision.
- K. BHA Residents employed pursuant to this Provision shall be discharged only for good cause. Prior to any such discharge, the Developer, Contractor or Subcontractor shall notify the BHA of the proposed discharge of a BHA Resident and the reasons therefor. Such notice also shall be given to the BHA Resident's union. The AACC may require that the Developer, Contractor, or Subcontractor meet with the AACC to discuss the reasons for any proposed discharge. Notwithstanding anything to the contrary in this Provision, a Contractor or Subcontractor may discharge a BHA Resident immediately if the BHA Resident's actions present an immediate and serious threat to the health and safety of the BHA Resident or others at the job site or may suspend a BHA Resident in contemplation of discharge pending notice to the AACC within two (2) Days, for any act of misconduct. The AACC may require that a Contractor or Subcontractor commit to writing the reasons for any immediate discharge of a BHA Resident. If the AACC finds these reasons not to constitute good cause for the immediate discharge, the BHA Resident shall be reinstated immediately in his or her position.
- L. Notwithstanding anything to the contrary in this Provision, if any BHA Resident employed by the Developer, the Contractor or its Subcontractors pursuant to Section III C.1 of this Provision leaves or is terminated from such employment, the AACC may require the Developer, the Contractor or its Subcontractors to employ additional BHA Residents sufficient to insure that the Developer and Contractor meets the requirements of Sections III C.2 and C.3.
- M. The Contractor shall not perform or supply with its own organization, or secure from any other business enterprise, any work, goods or services designated for the approved Minority or Women Business Enterprises without the prior approval of the AACC. If the Contractor is

unable, for reasons beyond its control, to subcontract work or purchase goods or services from the businesses listed on its Minority or Woman Business Utilization Forms, the Contractor may submit to the BHA in writing the reasons for such inability, and a revised Attachment 2A or 2B, as applicable, proposing alternative subcontracts to, or purchases from, Minority or Women Business Enterprises, sufficient to meet the requirements stated in Section III. B. and Section V.I. The Contractor shall, to the extent feasible, propose for such substitution Minority or Women Business Enterprises which are contained on the list published by the City of Boston, BHA, BRA, MHFA or SOMBA. If approved by the AACC, such revised Minority or Woman Business Utilization Form shall govern the Contractor's performance in meeting its Minority or Women Business Enterprise obligations under this Provision.

VI. Enforcement, Remedies and Sanctions

- A. Whenever the AACC believes that the Contractor or any of its Subcontractors at any tier may not be operating in compliance with this Provision, the AACC shall conduct an investigation or cause such an investigation to be conducted.
- B. If the AACC finds cause to believe that the Contractor or Subcontractor is not operating in compliance, the AACC shall issue a preliminary notice of non-compliance to the party that is in apparent non-compliance and notify the Developer, the Contractor and the Subcontractor, if applicable, in writing. The Developer, the Contractor or the Subcontractor, if applicable, may request an opportunity to meet with the AACC to discuss the Contractor's or Subcontractor's compliance. The Developer, Contractor or Subcontractor shall make such request to the AACC in writing within five (5) working days of receiving notice from the AACC. The meeting shall be scheduled by the AACC at a reasonable date, time and place, with notice to the Developer, Contractor and Subcontractor, if applicable.
- C. If the AACC determines that the Contractor or Subcontractor is meeting the minimum requirements in Sections III, A., B., C. and D. or, in the case of Sections III A and B, is taking and has taken every possible measure to achieve these requirements, the AACC shall find the Contractor or Subcontractor, if applicable, to be in compliance. The AACC shall issue its finding in writing,

setting forth a summary of the facts and reasons on which it is based. Copies of the finding and summary shall be sent to the Developer, the Contractor, and to the Subcontractor, as applicable.

- D. If the AACC finds a Contractor or Subcontractor to be in noncompliance with any of the requirements of this Provision, written notice will be sent to the Developer, Contractor or Subcontractor, as applicable, requiring the Developer, Contractor and Subcontractor, as applicable, to meet with the AACC to formulate a Corrective Action Plan. The Plan shall include a timetable, acceptable to the AACC, indicating the date by which compliance shall be achieved. The Plan also may include any other reasonable provision which the AACC, in its sole discretion, deems advisable in the circumstances. The Developer, Contractor and Subcontractor, if applicable, shall comply in full with the provisions of an AACC approved plan. It is the responsibility of the AACC to monitor the quality of the Contractor/Subcontractor implementation of the Corrective Action Plan. In making a determination pursuant to Section VI. F. below, the AACC must make a positive finding, taking into account the quality of efforts as well as numerical performance, that the Developer, Contractor or Subcontractor's actions, as applicable, are responsive to the objectives of the Corrective Action Plan.
- E. If the AACC finds cause to believe that the Contractor or Subcontractor, as applicable, has not adhered to the Corrective Action Plan or is otherwise in noncompliance with this Provision, the AACC shall so notify in writing the Developer, the Contractor and the Subcontractor, as applicable. Within five (5) days of receiving such notice, the Developer, the Contractor, or the Subcontractor, if applicable, may request an opportunity to meet with the AACC to discuss the alleged noncompliance with the Corrective Action Plan. The meeting shall be scheduled by the AACC at a reasonable date, time and place with notice to the Developer, Contractor and Subcontractor, as applicable.
- F. The AACC shall issue a written determination of whether the Contractor has adhered to the Corrective Action Plan and is in compliance with this Provision, setting forth a summary of the facts and reasons on which the determination is based. Copies of the AACC's determination shall be sent to the Developer, Contractor or Subcontractor, as applicable.

- G. If the AACC determines that the Developer, Contractor or Subcontractor, as applicable, has not adhered to the Corrective Action Plan and is in noncompliance with this Provision, the AACC shall with notice to the Developer, Contractor or Subcontractor, as applicable, recommend to the MHFA that a portion of the loan funds to be disbursed to such Contractor or Subcontractor be withheld and deposited in a noncompliance escrow account to be used for withholding funds until said Contractor or Subcontractor is in compliance with this Provision. The MHFA shall implement such recommendation, if it determines such action is warranted and is consistent with the provisions of the Section 221(d) 4 Co-insurance Program of the U.S. Department of Housing and Urban Development (hereinafter referred to as the "Co-Insurance Program") pursuant to which the Development is insured. The funds to be escrowed shall be taken from the next requisition as submitted by the Developer or such subsequent requisitions as necessary.
- H. The amount of funds to be escrowed shall be as follows:
1. If the Contractor has not adhered to a Corrective Action Plan and is in noncompliance with the requirements of Section III A., C., or D, not more than one-tenth (1/10) of one percent (1%) of the Contract price per violation for each week that the Contractor fails or refuses and/or has failed or refused to comply;
 2. If a Subcontractor has not adhered to a Corrective Action Plan and is in noncompliance with the requirements of Sections III A., C., or D., not more than one percent (1%) of the subcontract price per violation for each week that the Subcontractor fails or refuses and/or has failed or refused to comply;
 3. If the Contractor has not adhered to a Corrective Action Plan and is in noncompliance with the requirements of Section III B., an amount, for each violation, equal to not more than thirty percent (30%) of the total dollar amount by which the Contractor has fallen or appears will fall short of the Minority Business Enterprise or Women Business Enterprise goal, as applicable, set forth in said Section III B.

- I. No funds placed in escrow in accordance with the recommendation of the AACC by the MHFA shall be released by MHFA to the Developer, Contractor or Subcontractor until the MHFA has consulted with the AACC to determine the compliance status of the Developer, Contractor, or Subcontractor, as applicable, with this Provision.
- J. If, when the work under the Contract is substantially complete, the MHFA, after consultation with the AACC, has not released funds placed in escrow pursuant to this Provision, such funds shall be deemed liquidated damages, released from the escrow to MHFA and not distributed to the Developer, Contractor or Subcontractor.
- K. Within five (5) days after receiving notice that funds are to be placed in escrow pursuant to this Provision, the Developer, Contractor, or Subcontractor, if applicable, may appeal to the MCAD the AACC's decision to recommend the escrowing of funds, if MHFA has agreed to escrow funds. MCAD shall designate a reasonable date, time and place for an appeal hearing. Such hearing, if requested, shall be conducted according to the requirements of MGL c.30A.

VII. Release of Escrowed Funds

Notwithstanding anything to the contrary in this Provision, no funds placed in escrow pursuant to this Provision shall be paid to the Developer unless the MHFA determines to release such escrow funds.

VIII. Developer's Obligations

- A. In addition to any other obligations of the Developer under any preceding section, the Developer agrees to monitor, ensure and enforce full compliance by its Contractor and Subcontractors with this Provision. Developer agrees to furnish, or to cause its Contractors, Subcontractors, or vendors, as applicable, to furnish such information as the AACC may require for supervision of such compliance, and to allow authorized representatives of the AACC full access to the job site and to employees working on the job site. Developer agrees to take such action with respect to any Contractor or Subcontractor as the MHFA may direct, upon recommendation of the AACC, as a means of enforcing this Provision.
- B. The Developer agrees to include this Provision in every

construction contract, subcontract, or purchase order entered into under the Contract and in any requests for proposals or similar solicitations made in connection with such contracts, subcontracts or purchase orders.

C. If the Developer fails to comply with its obligations under this Provision or if the Developer's Contractor and/or Subcontractors fail to comply with this Provision, the AACC may recommend that the MHFA, at any time after the execution of the Contract and without prejudice to any other rights and remedies provided under this Provision or other applicable law:

1. bring an action, in its own name or in the name of the AACC, in any court of competent jurisdiction, including in the Suffolk Superior Court ancillary to Perez vs. BHA, Civil Action No. 17222, to obtain specific performance of the Developer's obligations under this Provision and/or the Developer's, Contractors' and Subcontractors' obligations under this Provision.

2. suspend payments due the Developer in an amount equal to not more than one-tenth (1/10) of one (1%) percent of the Contract price per violation for each week the Developer fails or refuses and/or has failed or refused to comply; provided, however, that any such suspension shall be made only after the AACC has given to the Developer written notice of the apparent noncompliance and has given the Developer an opportunity to meet with the AACC to present any arguments and evidence regarding the apparent noncompliance.

D. When the Contract work is substantially completed, the Developer shall deliver to the AACC a certification that all requirements of this Provision have been complied with during performance of the Contract. The AACC may request from the Developer such additional information as the AACC deems necessary to demonstrate such compliance. Prior to payment of the final requisition, the AACC shall determine whether the Developer has complied with the applicable requirements of this Provision. If AACC finds that the Developer has not so complied, the AACC may recommend that the MHFA withhold from the Developer:

1. any amounts which the AACC previously recommended be suspended or placed in escrow under this Provision; or

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2. liquidated damages in the amount of up to \$10,000 per violation for each week that the Developer or any Contractor or Subcontractor has not complied.

IX. General Provisions

A. The sections of this Provision are severable, and if any of these sections shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining sections.

B. All decisions and determinations by the AACC shall be final and not subject to contest by the Developer, Contractor or Subcontractor; provided, however, that after an AACC decision or determination has been made, the MHFA, upon the request of the Developer or Contractor, may revise, amend or otherwise alter the AACC decision or determination; and further provided that the decision or determination by the AACC recommending the placement of funds in escrow shall be subject to contest pursuant to the provisions of Section VIII. K.

C. Notwithstanding any provision to the contrary or that may be deemed to the contrary in the Harbor Point/Columbia Point Ground Lease between BHA, as Landlord and Harbor Point Apartments Company Limited Partnership, as Lessee, the sole and exclusive mechanisms for monitoring, determining compliance, enforcing, imposing sanctions or otherwise remedying any breach of this Minority, Female and Resident Provision shall be those mechanisms set forth in said Provision. Accordingly, a breach of said Provision shall not be treated as a default on the part of the Lessee for the purpose of pursuing or imposing remedies on default of said Ground Lease. Furthermore, said Provision shall not be subject to Article X of the Ground Lease nor shall Article X of the Ground Lease be deemed to apply to said Provision.

X. Captions

Captions are inserted for convenience of reference only and

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shall not be used to determine the intent of the parties with respect to this Provision.

BOSTON HOUSING AUTHORITY

BOSTON REDEVELOPMENT AUTHORITY

CITY OF BOSTON, MAYOR'S OFFICE OF JOBS & COMMUNITY SERVICE

HARBOR POINT APARTMENTS COMPANY LIMITED PARTNERSHIP

MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

MASSACHUSETTS HOUSING FINANCE AGENCY

VERNON CONSTRUCTION COMPANY
BY ITS JOINT VENTURERS
CMJ PENINSULA CONSTRUCTION, INC.

PEABODY PENINSULA CONSTRUCTION COMPANY, INC.

AFFIRMATIVE FAIR MARKETING CONTRACT

I. PURPOSE:

IT SHALL BE THE OBLIGATION OF THE PROPOSED MORTGAGOR, _____
HARBOR POINT DEVELOPMENT COMPANY TO AFFIRMATIVELY MARKET UNITS
IN HARBOR POINT DEVELOPMENT IN ACCORDANCE WITH
THE STANDARDS AND PROCEDURES SPECIFIED HEREIN FOR THE PURPOSE OF
INSURING AN ECONOMIC AND RACIAL MIX RESIDENTS. THE PROPOSED
MORTGAGOR HARBOR POINT DEVELOPMENT COMPANY COMMITS
ITSELF TO UTILIZE CREATIVE AND AGGRESSIVE APPROACHES TO FULFILL THE
PURPOSE OF THIS CONTRACT.

II. THE PROPOSED MORTGAGOR HARBOR POINT DEVELOPMENT COMPANY
(HEREINAFTER REFERRED TO AS THE DEVELOPER) WILL INSURE THAT THIS
PLAN IS INCLUDED IN HIS CONTRACT WITH HIS MANAGEMENT COMPANY.

III. AFFIRMATIVE MARKETING GOAL:

THE AFFIRMATIVE MARKETING EFFORT WILL BE DIRECTED TO THE MINORITY
AND MAJORITY RACIAL GROUPS THAT WOULD NOT ORDINARILY APPLY FOR
HOUSING IN THE LOCALITY OF THE HARBOR POINT DEVELOPMENT COMPANY
DEVELOPMENT, AS DETERMINED BY MHFA EQUAL OPPORTUNITY DEPARTMENT
(HEREINAFTER, MHFA). THE AFFIRMATIVE MARKETING EFFORT FOR _____

HARBOR POINT DEVELOPMENT SHALL BE DIRECTED TO THE
FOLLOWING RACIAL GROUPS AS DESIGNATED BY THE GOALS,

SUBSIDIZED UNITS 30% MAJORITY GOAL

OUTREACH SHALL BE DIRECTED TO MAJORITY POPULATION.

DURING INITIAL RENT-UP, THIS REQUIREMENT IS SUPERSEDED BY THE
COMMITMENT TO HOUSE CURRENT COLUMBIA POINT RESIDENTS.

MARKETS UNITS 30% MINORITY GOALS

OUTREACH SHALL BE DIRECTED TO MINORITY POPULATION WHICH INCLUDES
THE FOLLOWING: BLACK, HISPANICS, ASIAN AMERICANS, NATIVE AMERICAN
POPULATIONS.

IV. DOCUMENTATION:

THE DEVELOPER SHALL CONTINUALLY SUBMIT TO MHFA, DOCUMENTATION OF HIS AFFIRMATIVE MARKETING EFFORTS AS REQUESTED.

V. STAFF:

- (A) HARBOR POINT DEVELOPMENT COMPANY PROPOSED MORTGAGOR, SHALL EMPLOY FOR HIS DEVELOPMENT A MANAGEMENT STAFF, INCLUDING RENT-UP AND SECURITY EMPLOYEES, WHICH IS SENSITIVE TO THE PARTICULAR CONCERNS OF MINORITY AND LOW-INCOME FAMILIES. AGGRESSIVE AFFIRMATIVE HIRING EFFORTS SHALL BE TAKEN IN MANAGEMENT STAFFING, INCLUDING OBTAINING RECRUITMENT ASSISTANCE FROM THE AFFIRMATIVE FAIR MARKETING CONTACTS (IDENTIFIED PURSUANT TO PART IV (B) BELOW). IN ADDITION, THE DEVELOPER SHALL EXPLORE THE POSSIBILITY OF UTILIZING INDIVIDUALS FROM THE AFFIRMATIVE FAIR MARKETING CONTACTS TO ASSIST APPLICANTS. THE RACIAL COMPOSITION OF THE DEVELOPMENT'S MANAGEMENT STAFF WILL BE TAKEN INTO ACCOUNT BY MHFA IN DETERMINING WHETHER THE DEVELOPER HAS FULFILLED HIS AFFIRMATIVE FAIR MARKETING OBLIGATIONS.
- (B) THE MHFA SHALL CONDUCT AN AFFIRMATIVE FAIR MARKETING ORIENTATION PROGRAM FOR THE MANAGEMENT STAFF WHICH WILL INCLUDE , AT LEAST, THE DISSEMINATION OF THE FOLLOWING STATE AND FEDERAL REGULATIONS:

TITLE VIII, OF THE CIVIL RIGHTS ACT OF 1968
TITLE VI, OF THE CIVIL RIGHTS ACT OF 1964
EXECUTIVE ORDER 11063, NOVEMBER 29, 1962
EXECUTIVE ORDER 74, AS AMENDED BY EXECUTIVE ORDER 227
(MASSACHUSETTS)
CHAPTER 151B, SECTION IV, OF THE MASSACHUSETTS FAIR
HOUSING LAW
EXECUTIVE ORDER, 11246, SEPTEMBER 9, 1965

SUBSEQUENT TO THE ORIENTATION PROGRAM THE DEVELOPER WILL DISSEMINATE ADDITIONAL AFFIRMATIVE FAIR MARKETING INFORMATION TO THE MANAGEMENT STAFF AS DIRECTED BY MHFA.

(C) THE DEVELOPER WILL ISSUE A POLICY STATEMENT CONCERNING EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION TO ALL MANAGEMENT EMPLOYEES. THIS POLICY STATEMENT WILL BE POSTED IN THE RENTAL/MANAGEMENT OFFICE.

(D) THE DEVELOPER/MANAGEMENT COMPANY WILL HAVE AVAILABLE ON SITE FOR INSPECTION BY MHFA, JOB DESCRIPTIONS FOR ALL STAFF PRIOR TO THE HIRING OF THAT STAFF.

VI. MARKETING:

1. ADVERTISING

THE ADVERTISING COMPONENT OF THE AFFIRMATIVE FAIR MARKETING PROGRAM FOR THIS DEVELOPMENT SHALL INCLUDE AT A MINIMUM THE FOLLOWING:

(A) AT THE START OF CONSTRUCTION, AN ON-SITE SIGN, LARGE ENOUGH TO BE FULLY LEGIBLE TO ALL PASSERS-BY, SHALL BE PLACED IN A CONSPICUOUS LOCATION. THE SIGN SHALL STATE: "FINANCED BY MASSACHUSETTS HOUSING FINANCE AGENCY, UNITS AVAILABLE ON AN OPEN OCCUPANCY BASIS". THE HUD LOGOTYPE SHALL BE PROMINENTLY DISPLAYED AND SHALL BE EQUAL TO THE LARGEST OF THE OTHER LETTERING USED. THE SLOGAN SHALL BE EQUAL TO THE SIZE OF THE SECONDARY LETTERING.

(B) ALL BROCHURES (INCLUDING BROCHURES FOR PROMOTION OF COMMERCIAL SPACE), PAMPHLETS, STATIONARY, AND OTHER LITERATURE SHALL STATE: "FINANCED BY MASSACHUSETTS HOUSING FINANCE AGENCY, UNITS AVAILABLE ON AN OPEN OCCUPANCY BASIS", AND SHALL CARRY THE FAIR HOUSING LOGOTYPE.

(C) IF HUMAN MODELS ARE USED THE DEVELOPER SHALL UTILIZE A MIX OF MINORITY AND MAJORITY MODELS WHICH REFLECTS THE AFFIRMATIVE FAIR MARKETING GOAL, BUT DOES NOT INDICATE A PREFERRED INCOME BRACKET OR LIFE STYLE FOR THIS DEVELOPMENT.

(D) THE DEVELOPER SHALL SUBMIT TO MHFA FOR APPROVAL THE PROPOSED SCHEDULE FOR AND COPIES OF ALL MODES OF ADVERTISING (NEWSPAPER, RADIO OR TELEVISION ADVERTISING, ETC.) PRIOR TO ITS PLACEMENT WITH THE MEDIA.

(E) PRIOR TO THE RENT-UP AND ACCORDING TO A SCHEDULE SUBMITTED TO AND APPROVED BY MHFA, ADVERTISING SHALL BE PLACED IN EACH MINORITY NEWSPAPER THAT SERVES THE AFFIRMATIVE MARKETING AREA. MHFA WILL EVALUATE THE RESPONSE TO THIS ADVERTISING AND DETERMINE WHETHER ADDITIONAL ADVERTISING IN MINORITY NEWSPAPERS IS NECESSARY TO REASONABLY ENSURE AN ADEQUATE MINORITY APPLICANT POOL. THE DEVELOPER SHALL EXPLORE THE POSSIBILITY OF ADVERTISING ON ANY MINORITY RADIO STATIONS SERVING THE AFFIRMATIVE FAIR MARKETING AREA. HOWEVER, IF THE DEVELOPER ADVERTISES FOR THIS DEVELOPMENT ON MAJORITY RADIO, HE SHALL ALSO ADVERTISE FOR THE DEVELOPMENT ON MINORITY RADIO.

(F) IF AN ADVERTISING AGENCY IS UTILIZED, THE DEVELOPER SHALL ASSURE THAT THE AGENCY IS COMMITTED TO AFFIRMATIVE ACTION AND IS FAMILIAR WITH MHFA AFFIRMATIVE MARKETING POLICIES. THE AGENCIES

SHALL MEET WITH MHFA EARLY IN THE PLANNING OF THE ADVERTISING PROGRAM FOR THE DEVELOPER.

2. COMMUNITY RESOURCES:

MHFA WILL ASSIST THE DEVELOPER BY PROVIDING AN AFFIRMATIVE FAIR MARKETING COMMUNITY RESOURCES CONTACT LIST WHICH SHALL INCLUDE OFFICIAL RELOCATION AGENCIES AND OTHER GOVERNMENT OR PUBLIC INTEREST GROUPS INVOLVED IN HOUSING PLACEMENT. THE DEVELOPER SHALL SUBMIT TO MHFA A LIST OF OTHER COMMUNITY RESOURCES, ORGANIZATIONS AND INDIVIDUALS WHICH HE HAS LOCATED AND PLANS TO CONTACT AS PART OF HIS AFFIRMATIVE MARKETING EFFORTS. AS THE DEVELOPER BECOMES MORE FAMILIAR WITH THE OUTREACH AREA, HE SHALL MAKE ADDITIONS TO THIS LIST AS APPROPRIATE.

THE DEVELOPER SHALL SEND A NOTIFICATION TO ALL COMMUNITY RESOURCES CONTACTS IN THE OUTREACH AREA AT THE START OF CONSTRUCTION. THIS NOTIFICATION SHALL INCLUDE THE BASIC INFORMATION CONCERNING THE DEVELOPMENT (E.G. NUMBER OF UNITS, APPROXIMATE DATE OF OCCUPANCY, INCOME LEVELS TO BE SERVED), THAT ALL UNITS WILL BE AVAILABLE ON AN OPEN OCCUPANCY BASIS, THAT THE GROUPS ARE BEING CONTACTED BECAUSE THEY MAY BE INTERESTED IN PARTICIPATING IN THE DEVELOPER'S AFFIRMATIVE MARKETING EFFORTS AND THAT THEY WILL BE CONTACTED LATER CONCERNING THEIR DESIRE TO PARTICIPATE IN THIS EFFORT. THE NOTICE SHALL ALSO PROVIDE THE NAME OF A PERSON TO CONTACT FOR FURTHER INFORMATION.

THE DEVELOPER SHALL SEND A SECOND NOTIFICATION TO HIS COMMUNITY RESOURCE CONTACTS AT APPROXIMATELY 50% OF COMPLETION OF CONSTRUCTION, OR AT SUCH OTHER TIME AS MHFA SPECIFIES. THIS NOTIFICATION SHALL CONTAIN AN UPDATE ON THE INFORMATION PROVIDED IN THE FIRST NOTIFICATION AND ON THE PROGRESS OF THE DEVELOPMENT, A NARRATIVE CONCERNING THE DEVELOPMENT (E.G. RENT LEVELS, AMENITIES, AVAILABILITY OF TRANSPORTATION), AND THAT THE ORGANIZATIONS WILL BE PERSONALLY CONTACTED IN THE NEAR FUTURE TO DISCUSS WHETHER IT IS INTERESTED IN PARTICIPATING IN THE AFFIRMATIVE MARKETING EFFORTS FOR THE DEVELOPMENT. THIS NOTIFICATION SHALL BE FOLLOWED UP BY A TELEPHONE CALL OR OTHER PERSONAL CONTACT TO THE ORGANIZATION, AND IF THE ORGANIZATION IS ACTIVELY INTERESTED IN THE DEVELOPER'S AFFIRMATIVE MARKETING EFFORTS, ARRANGEMENT SHALL BE MADE TO INVOLVE THE ORGANIZATION,

SUCH AS PUBLICIZING THE DEVELOPMENT IN THE ORGANIZATION'S LETTER, DISTRIBUTION OF FLYERS DESCRIBING THE DEVELOPMENT TO MEMBERS OF THE ORGANIZATIONS AND OTHERS SUGGESTED BY THE ORGANIZATION, A DEVELOPER REPRESENTATIVE SPEAKING AT ORGANIZATION MEETINGS, AND THE USE OF MEMBERS OF THE ORGANIZATION AS VOLUNTEERS TO ASSIST IN THE AFFIRMATIVE MARKETING EFFORTS.

SEVERAL WEEKS BEFORE THE BEGINNING OF RENT-UP THE DEVELOPER SHALL SEND A THIRD NOTIFICATION TO ALL COMMUNITY RESOURCE CONTACTS THAT HE HAS IDENTIFIED AS POSSIBLY HELPFUL IN HIS AFFIRMATIVE MARKETING EFFORTS (NOT NECESSARILY LIMITED TO THOSE GROUPS THAT HAVE PLAYED AN ACTIVE ROLE). THIS NOTIFICATION SHALL INCLUDE THE RENT-UP BROCHURE FOR THE DEVELOPMENT, THE PRECISE DATES FOR RENT-UP, A BRIEF DESCRIPTION OF HOW AN APPLICANT MAY APPLY AND A NAME OF A PERSON TO CONTACT FOR FURTHER INFORMATION.

VII. RENT-UP PROCEDURES:

(A) PRIOR TO RENT-UP THE DEVELOPER SHALL REPORT MHFA DOCUMENTING HIS AFFIRMATIVE MARKETING EFFORTS TO DATE. HALF WAY THROUGH THE CHRONOLOGICAL RENT-UP PERIOD, THE DEVELOPER SHALL SUBMIT TO MHFA AN UPDATED TALLY OF THE TOTAL NUMBER OF APPLICANTS IN EACH ECONOMIC LEVEL. ON THE LAST DAY OF THE RENT-UP PERIOD THE DEVELOPER SHALL SUBMIT TO MHFA AN UPDATE TALLY OF THE APPLICANT POOL.

(B) IF IT APPEARS FROM THE DEVELOPER'S REPORT OR FROM OTHER MHFA MONITORING ACTIVITIES THAT THERE WILL NOT BE A MINORITY APPLICANT POOL SUFFICIENT FOR THE DEVELOPMENT TO REACH ITS GOAL, MHFA MAY SPECIFY THAT THE DEVELOPMENT SHALL UNDERTAKE FURTHER AFFIRMATIVE MARKETING ADVERTISING AND OUTREACH, AND THE FACT THAT THE CHRONOLOGICAL RENT-UP PERIOD MAY HAVE CLOSED IS NOT RELEVANT TO MINORITY APPLICANTS WHO MAY APPLY THEREAFTER FOR A SPECIFIED PERIOD. IN ADDITION, MHFA RESERVES THE AUTHORITY TO INSTRUCT THE DEVELOPER TO ADJUST THE PREFERENCE CATEGORIES SPECIFIED IN MHFA'S APPROVED RESIDENT SELECTION PLAN FOR THE DEVELOPMENT AS SUCH ADJUSTMENT WOULD ASSIST IN MEETING THE DEVELOPMENT'S AFFIRMATIVE MARKETING GOAL. MHFA MAY ORDER THE DEVELOPER TO HOLD OPEN UNITS IN THE DEVELOPMENT UNTIL EITHER THE DEVELOPER'S AFFIRMATIVE MARKETING GOAL IS REACHED OR UNTIL MHFA DETERMINES THAT THE DEVELOPER HAS MADE REASONABLE EFFORT.

VIII. CONTINUING AFFIRMATIVE MARKETING OBJECTIVES:

IN ORDER TO MAINTAIN THE AFFIRMATIVE MARKETING OBJECTIVE ON AN ON-GOING BASIS THROUGHOUT THE LIFE OF THE MORTGAGE, THE MHFA QUARTERLY AFFIRMATIVE MARKETING STATUS REPORT WILL BE EXAMINED FOR THE NUMBER OF VACANCIES AND NUMBER OF MINORITY/MAJORITY RESIDENTS. FOR THE FILLING OF VACANCIES, THE DEVELOPER SHALL CONTINUE TO COMPLY WITH THE OBJECTIVES OF THE AFFIRMATIVE MARKETING PLAN, INCLUDING ADVERTISING IN MINORITY MEDIA. IF NECESSARY, MHFA MAY ORDER THE DEVELOPER TO HOLD VACANT UNITS OPEN UNTIL SATISFACTORY AFFIRMATIVE MARKETING EFFORTS HAVE BEEN DONE WITH RESPECT TO THE VACANCIES.

IX. SANCTIONS:

A FEDERAL SANCTIONS FOR FEDERALLY ASSISTED PROJECTS:

FAILURE OR REFUSAL TO COMPLY AND GIVE SATISFACTORY ASSURANCE OF FUTURE COMPLIANCE WILL INCLUDE, BUT NOT BE LIMITED TO, DENIAL OF FURTHER PARTICIPATION IN FEDERAL PROGRAMS IN ACCORDANCE WITH TITLE 24, CFR, PART 24 - DEBARMENT, SUSPENSION AND INELIGIBILITY OF CONTRACTORS AND GRANTEEES, AND REFERRAL TO THE DEPARTMENT OF JUSTICE FOR SUIT BY THE UNITED STATES FOR INJUNCTION OR OTHER APPROPRIATE RELIEF.

B STATE SANCTIONS:

FAILURE OR REFUSAL TO COMPLY WITH OR GIVE SATISFACTORY ASSURANCE OF FUTURE COMPLIANCE WITH THIS AFFIRMATIVE MARKETING PLAN WILL SUBJECT A DEVELOPER OR ANY CONTRACTOR OF THE DEVELOPER TO DEBARMENT, SUSPENSION OR INELIGIBILITY FROM ANY MHFA DEVELOPMENT. IN ADDITION, MHFA SHALL NOTIFY OTHER STATE AGENCIES OF THIS FAILURE OR REFUSAL.

X. PUBLIC INSPECTION OF AFFIRMATIVE MARKETING PLANS:

AFTER THIS PLAN HAS BEEN APPROVED, IT SHALL BE AVAILABLE FOR PUBLIC INSPECTION BY ANY INTERESTED GROUP OR INDIVIDUAL AT THE RENTAL OFFICE.

THE PROPOSED MORTGAGOR HARBOR POINT DEVELOPMENT COMPANY IS
HEREBY NOTIFIED THAT VERIFIERS FROM RECOGNIZED PUBLIC AGENCIES MAY

BE SOLICITED TO PROVIDE MONITORING FUNCTION. IF THE MORTGAGE FOR
HARBOR POINT DEVELOPMENT HAS NOT
CLOSED WITHIN 120 DAYS OF THE DATE OF THIS PLAN, THE MHFA WILL
REVIEW THE PLAN FOR ITS APPROPRIATENESS.

MORTGAGOR: HARBOR POINT DEVELOPMENT COMPANY

TYPED NAME

SIGNATURE

MANAGEMENT COMPANY: CMJ MANAGEMENT COMPANY

TYPED NAME

SIGNATURE

MASSACHUSETTS HOUSING FINANCE AGENCY

GLENDORA MCILWAIN PUTNAM
EQUAL OPPORTUNITY OFFICER
TYPED NAME

SIGNATURE

DATE: _____

COOPERATION AGREEMENT

The undersigned public parties and agencies, having been involved in and having substantially contributed to the Development, hereby pledge (i) to utilize their respective best efforts to obtain extensions, replacements and/or continuations of Subsidies for the Development for the purpose of helping to ansure that at least 400 Low Income Units can be maintained at the Development during the full term of the Lease and (ii) in the event such efforts are unsuccessful and to the extent permissible by applicable law and regulations, to attempt to provide housing subsidy assistance for any low income residents displaced from the Development by failure to obtain such extensions, replacements and/or continuations of Subsidies.

UNITED STATES DEPARTMENT OF HOUSING
URBAN DEVELOPMENT

By _____

BOSTON REDEVELOPMENT AUTHORITY

By _____

EXECUTIVE OFFICE OF COMMUNITIES
AND DEVELOPMENT

By _____

MASSACHUSETTS HOUSING FINANCE
AUTHORITY

By _____

MAYOR OF THE CITY OF BOSTON

GOVERNOR OF THE COMMONWEALTH OF
MASSACHUSETTS

Agreement to Terminate Memorandum of Understanding
for Columbia Point Developer Selection

The parties to the document entitled "Columbia Point Developer Selection: Memorandum of Understanding Among the Boston Housing Authority, the Boston Redevelopment Authority, and Columbia Point Community Task Force, Inc.", which document was executed in October, 1983, hereby agree that effective with the execution of the Ground Lease for Columbia Point/Harbor Point between the Boston Housing Authority and the Harbor Point Apartments Company Limited Partnership, the October, 1983 Memorandum of Understanding shall terminate and shall have no further legal effect. It is the intent of the parties to the October, 1983 Memorandum of Understanding that the terms of the Ground Lease shall restate and supersede the terms of the Memorandum of Understanding. Copies of the October, 1983 Memorandum of Understanding and the Ground Lease are appended hereto and incorporated herein by reference.

BOSTON HOUSING AUTHORITY, BY:

Date: _____

Doris Bunte, Administrator

BOSTON REDEVELOPMENT AUTHORITY, BY:

Date: _____

Stephen Coyle, Director

PLAINTIFF CLASS, PEREZ v. BHA, BY:

Date: _____

James M. McCreight, Class Counsel

COLUMBIA POINT COMMUNITY TASK
FORCE, INC., BY:

Date: _____

Esther Santos

CORCORAN, MULLINS, JENNISON, INC., BY:

Date: _____

Joseph R. Mullins

NATIONAL HOUSING PARTNERSHIPS, BY:

Date: _____

PEABODY CONSTRUCTION COMPANY, BY:

Date: _____

JOHN B. CRUZ, INC., BY:

Date: _____

HOUSING ASSOCIATES, BY:

Date: _____

MEMORANDUM

JULY 17, 1986

TO: BOSTON REDEVELOPMENT AUTHORITY AND
STEPHEN COYLE, DIRECTOR

FROM: RICHARD GARVER, ASSISTANT DIRECTOR FOR SPECIAL PROJECTS
JANET CARLSON, ASSISTANT GENERAL COUNSEL
GEORGE WINSTON, DIRECTOR CONTACT COMPLIANCE

SUBJECT: COLUMBIA POINT

- o Execution of a Memorandum of Agreement of the Affirmative Action Coordinating Committee;
- o Execution of a Cooperation Agreement with respect to 400 low income units;
- o Termination of the Columbia Point Developer Selection: Memorandum of Understanding Among the Boston Redevelopment Authority, and the Columbia Point Community Task Force, Inc.

On October 13, 1983, the Authority entered into a Memorandum of Understanding (MOU) among the Boston Redevelopment Authority, the Boston Housing Authority, the Columbia Point Community Task Force, Inc. and the Columbia Point developer. The purpose of the memorandum, which is attached, was to set out the basic principles which would guide the parties in soliciting development proposals for the Harbor Point Project and in carrying out the redevelopment. Among the points established in the MOU are:

- o at least 400 low income units must be provided and permanently maintained in the new development;
- o a Public Benefit Fund must be established which will utilize funds generated from the project to create additional low income housing in the City of Boston;
- o all Columbia Point households shall be offered a new or substantially rehabilitated unit at the new development;
- o any temporary relocation of current households will be on site;
- o the Community Task Force will be involved in all development decisions up to the point of Final Designation, and will become a development partner with a strong decision-making and financial role after Final Designation;

- o residents are to be afforded a fair share of the construction and permanent job opportunities created by the development.

The Harbor Point proposal was developed under the guidance of this MOU. All of its provisions have now been incorporated into the development proposal and the documents which underlie it. In particular, the ground lease between the Boston Housing Authority and Harbor Point Apartments Company establishes detailed provisions concerning the developer's maintenance of 400 low income units, the availability of these units to present households, relocation and the role of the Task Force. On December 5, 1985, the Authority authorized the Director to enter into the Public Benefit Fund which is called for in the MOU.

A provision remaining to be fully implemented is that addressing construction and permanent employment. To this end the BRA staff, together with the BHA, MHFA, the City of Boston, and the Massachusetts Commission Against Discrimination, have proposed to establish a joint agreement under which the parties will coordinate the goals, requirements, reporting, monitoring and enforcement with respect to:

1. Minority, female, Boston residents, BHA resident participation program.
2. Affirmative Fair Marketing.
3. HUD Permanent Jobs Requirements.
4. Federal and State Executive Orders.
5. Federal and State Prevailing Wage Requirements.

The attached Memorandum of Agreement of the Affirmative Action Coordinating Committee for the Harbor Point Development, together with its attachments, sets forth this agreement.

Finally, since the low income subsidies have contractual time limits, each party to the MOU has thought it appropriate to express the MOU's idea of 400 permanent low income units by executing a Cooperation Agreement in which they undertake to seek additional subsidy for these units as this may become necessary. With the execution of the AACC and the Cooperation Agreement, the provisions of the 1983 MOU have been implemented or given further specificity in subsequent agreements and contracts. In order that these agreements become the full and final expression of the principles established in the MOU, the parties have agreed that the MOU should now be extinguished.

It is therefore appropriate that the Authority authorize the Director to execute the Memorandum of Agreement of the Affirmative Action Coordinating Committee; that it authorize the Director to execute the Cooperation Agreement with respect to low income subsidy; and that it also vote to execute the attached Agreement to Terminate the Memorandum of Understanding for the Columbia Point Developer Selection.

An appropriate vote follows:

VOTED: that the Director is hereby authorized to execute, in substantially the form attached, a Memorandum of Understanding of the Affirmative Action Coordinating Committee;

that the Director is hereby authorized to execute, in substantially the form attached, the Cooperation Agreement with respect to subsidies for the 400 low income units at Harbor Point.

Director is hereby authorized to execute, in substantially the form attached, the Agreement to Terminate Memorandum of Understanding for Columbia Point Developer Selection in substantially the form attached.

